

1 LEXINGTON LAW GROUP  
2 Mark N. Todzo, State Bar No. 168389  
3 Abigail Blodgett, State Bar No. 278813  
4 503 Divisadero Street  
5 San Francisco, CA 94117  
Telephone: (415) 913-7800  
Facsimile: (415) 759-4112  
mtodzo@lexlawgroup.com  
ablodgett@lexlawgroup.com

6 HALUNEN LAW  
7 Melissa W. Wolchansky  
8 Charles D. Moore (pro hac vice pending)  
9 80 South Eighth Street, Suite 1650  
10 Minneapolis, MN 55402  
Telephone: (612) 605-4098  
Facsimile: (612) 605-4099  
wolchansky@halunenlaw.com  
moore@halunenlaw.com

## 11 | Court Appointed Class Counsel

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

16 REBEKAH BAHARESTAN and JENA  
17 MCINTYRE, on behalf of themselves and all  
others similarly situated.

18 || Plaintiffs

V

21 VENUS LABORATORIES, INC., DBA  
EARTH FRIENDLY PRODUCTS, INC.

Defendant.

Case No. 3:15-cv-03578-EDI

**STIPULATION TO AMEND ORDER  
GRANTING ATTORNEYS' FEES AND  
[PROPOSED] AMENDED ORDER**

Judge: Hon. Elizabeth D. Laporte

1 Plaintiffs Rebekah Baharestan and Jena McIntyre, on behalf of themselves and all others  
 2 similarly situated (collectively, "Plaintiffs") and Defendant Venus Laboratories, Inc. d/b/a Earth  
 3 Friendly Products, Inc. ("Defendant") (collectively, the "Parties") hereby stipulate as follows:

4 WHEREAS, the Parties entered into a class action settlement (the "Settlement") on  
 5 September 29, 2015 (ECF No. 15-2);

6 WHEREAS, the Settlement was preliminarily approved by the Court on November 5, 2015  
 7 (ECF No. 23);

8 WHEREAS, in preliminarily approving the Settlement, the Court considered, among other  
 9 things, that Plaintiffs' lodestar incurred in this case exceeded their request for attorneys' fees and  
 10 costs, as explained in the Supplemental Declaration of Mark N. Todzo (ECF No. 22);

11 WHEREAS, pursuant to the Court's Order requiring Plaintiffs to file a Motion for  
 12 Attorneys' Fees, Costs, and Expenses by January 15, 2016 (ECF No. 23 at 10:15), Plaintiffs filed  
 13 their Motion for an Award of Attorneys' Fees, Costs, and Service Awards on January 15, 2016,  
 14 which requested \$277,500 as a reimbursement of their attorneys' fees and costs (ECF No. 29);

15 WHEREAS, the Court considered Plaintiffs' Motion and arguments in favor of granting  
 16 Plaintiffs' Motion for \$277,500 in attorneys' fees and costs at the March 15, 2016 hearing;

17 WHEREAS, Plaintiffs' submitted a proposed order in support of the Motion for Final  
 18 Approval on January 15, 2016, ECF 29-4, that unfortunately contained a typographical error  
 19 stating that the Court awards Plaintiffs \$227,500 in attorneys' fees and costs, rather than \$277,500;

20 WHEREAS, at the Fairness Hearing, the Court stated that it would likely approve the full  
 21 amount of attorneys' fees and costs requested by Plaintiffs;

22 WHEREAS, the Court granted Plaintiffs' Motion on March 16, 2016 (ECF No. 39);

23 WHEREAS, the record in this case repeatedly shows that the correct amount of attorneys'  
 24 fees and costs is \$277,500, including ECF No. 15 at 7:11 & 8:23 (Plaintiffs' Memorandum of  
 25 Points and Authorities in Support of their Motion for Preliminary Approval of the Settlement),  
 26 ECF No. 15-2 at ¶¶ 8.1 & 8.2, Exhs. B, C & D (the Settlement), ECF No. 28 at 5:3 (Plaintiffs'  
 27 Motion for Final Approval of the Settlement), ECF No. 29 at vii:8, 1:5-6, 1:19-21, 8:19, 11:23 &

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1 19:19 (Plaintiffs' Motion for Attorneys' Fees, Costs, and Incentive Awards), and ECF No. 30 at  
2 11:11 (Objection of Steven Franklyn Helfand);

3 WHEREAS, in the Settlement, Defendant agreed "not [to] appeal any order with respect to  
4 the award of Attorneys' Fees and Expenses provided that the order does not award Attorneys'  
5 Fees and Expenses in excess of the amount stated in Section 8.1" (ECF No. 15-2, § 8.4);

6 THE PARTIES HEREBY STIPULATE AND REQUEST that the Court enter the  
7 Proposed Amended Order *nunc pro tunc* to correct the attorneys' fees and costs amount.

8  
9 **IT IS SO STIPULATED.**

10 Dated: April 22, 2016

LEXINGTON LAW GROUP

12 /s/ Mark N. Todzo

13 Mark N. Todzo

14 Attorneys for Plaintiff Rebekah Baharestan and Class

15 Dated: April 22, 2016

HALUNEN LAW

17 /s/ Melissa W. Wolchansky

18 Attorneys for Plaintiff Jena McIntyre and Class

19 Dated: April 22, 2016

DRINKER BIDDLE & REATH LLP

21 /s/ Daniel J. Delaney

22 Attorneys for Defendant Venus Laboratories, Inc.  
d/b/a Earth Friendly Products, Inc.

**[PROPOSED] AMENDED ORDER**

2 This matter having come before the Court on March 15, 2016, on the motion of Plaintiffs  
3 for an award of attorneys' fees, the reimbursement of expenses incurred by Plaintiffs' Counsel in  
4 the above captioned action, and the payment of a service award to each Plaintiff, the Court, having  
5 considered all papers filed and proceedings conducted herein, having found the settlement of this  
6 action to be fair, reasonable and adequate, and otherwise being fully informed in the premises and  
7 good cause appearing therefore:

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

9       1. The Court has jurisdiction over the subject matter of the Complaint, Class  
10 Representatives, all Class Members, and Defendant.

11           2. All capitalized terms not otherwise defined herein shall have the meaning set forth  
12 in the Settlement.

13       3.       The Court hereby awards Plaintiffs' Counsel attorneys' fees and expenses of  
14      \$277,500 to be paid from the Settlement Fund. The Court finds that the amount of fees awarded is  
15      appropriate and is fair and reasonable given the substantial risks of non-recovery, the time and  
16      effort involved, and the result obtained for the Class. *See Vizcaino v. Microsoft Corp.*, 290 F.3d  
17      1043 (9th Cir. 2002).

18       4. The awarded attorneys' fees and expenses shall be paid subject to the terms,  
19 conditions and obligations of the Settlement, and in particular ¶8.2 thereof, which terms,  
20 conditions and obligations are incorporated herein.

21       5.      A service award is awarded to the following Plaintiffs in the amounts indicated:  
22      Rebekah Baharestan, \$1,500; and Jena McIntyre, \$1,500. Such an award is reasonable considering  
23      each Plaintiff's active participation in this action, as attested to by the declarations submitted to the  
24      Court. Payment of the incentive awards shall be made pursuant to the Settlement, in particular  
25      ¶8.5 thereof.

26        6. Pursuant to the Settlement, ¶10.14, the Court shall retain jurisdiction with respect to  
27 the implementation and enforcement of the terms of the Class Settlement Agreement and the

1 Parties to the Class Settlement Agreement submit to the jurisdiction of the Court for those  
2 purposes.

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4 **IT IS SO ORDERED.**

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6 DATED: April 25, 2016

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The Honorable Elizabeth D. Laporte  
United States Magistrate Judge